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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LAKEITH LEROY MCCOY,
Plaintiff,
v.
J. RAMIREZ, et al.,
Defendants.

CASE NO. 1:13-cv-01808-MJS (PC)

**ORDER DENYING DEFENDANT'S
MOTION OR ORDER REVOKING IN
FORMA PAUPERIS STATUS,
GRANTING DEFENDANT'S MOTION
FOR EXTENSION OF TIME, AND
APPROVING SUBSTITUTION OF
ATTORNEY**

(ECF Nos. 48, 53, 55)

FOURTEEN (14) DAY DEADLINE

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. (ECF Nos. 1 & 5.) The matter proceeds against Defendant Ramirez on an Eighth Amendment excessive force claim. (ECF No. 33.) The docket reflects that a copy of the summons and operative pleading were mailed to Defendant on August 22, 2015, and Defendant mailed a waiver of service on October 8, 2015. (ECF No. 41.)

On November 19, 2015, Defendant filed a motion for an order revoking Plaintiff's in forma pauperis status on the ground that Plaintiff is a "three-striker" pursuant to 28

1 U.S.C. § 1915(g). (ECF No. 48.) Defendant also sought, and was granted, an extension
2 of time to file a responsive pleading pending the Court's ruling on his motion. In his
3 objections to that motion, Plaintiff correctly argued that his in forma pauperis status is not
4 subject to revocation because the strikes referenced by Defendant were incurred *after*
5 he filed the instant action. On this ground, Defendant now moves to withdraw his motion
6 to revoke and seeks an extension of time to file a responsive pleading. (ECF No. 53.)
7 Also before the undersigned is a proposed substitution of attorney for Defendant. (ECF
8 NO. 55.)

9 Good cause appearing, IT IS HEREBY ORDERED that:

- 10 1. Defendant's motion to withdraw his motion (ECF No. 53) is GRANTED;
- 11 2. Defendant's motion for an order revoking Plaintiff's in forma pauperis status
12 (ECF No. 48) is DENIED as moot;
- 13 3. Defendant's request for an extension of time to file a responsive pleading is
14 GRANTED;
- 15 4. The substitution of attorney for Defendant (ECF No. 55) is APPROVED; and
- 16 5. Defendant shall file a responsive pleading within fourteen (14) days from the
17 date of this Order.

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19 IT IS SO ORDERED.

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21 Dated: February 9, 2016

/s/ Michael J. Seng
22 UNITED STATES MAGISTRATE JUDGE
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